

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

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EUGENE SCALIA, SECRETARY OF LABOR,
United States Department of Labor

Petitioner,

v.

ERIC TRAVERSE, in his capacity
as Trustee of the CONNOR GROUP
401(k) PLAN,

Respondent.

CIVIL ACTION FILE NO:

2:19-cv-222

PETITION TO ENFORCE ADMINISTRATIVE SUBPOENA

Eugene Scalia, Secretary of the United States Department of Labor, asserts:

1. This action is brought to compel Respondent to comply with an Administrative Subpoena issued and directed to him by the Regional Director, Boston Regional Office, Employee Benefits Security Administration ("EBSA"), United States Department of Labor ("Department") in an investigation conducted pursuant to section 504(a)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA" or "the Act"), 29 U.S.C. § 1134.
2. The Court has jurisdiction over this petition pursuant to Sections 9 and 10 of the Federal Trade Commission Act, 15 U.S.C. §§ 49 and 50, as made applicable by ERISA § 504(c), 29 U.S.C. § 1134(c), and pursuant to ERISA § 502(e)(1), 29 U.S.C. § 1132(e)(1).
3. The Connor Group 401(k) Plan (the "Plan") is an employee benefit plan within the meaning of ERISA §3(3), 29 U.S.C. § 1002(3), and is subject to the coverage of the Act

pursuant to § 4(a) of ERISA, 29 U.S.C. § 1003(a). The Plan was administered from its principal office in Middlebury, Vermont. Venue is proper pursuant to ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2).

4. Respondent Eric Traverse is, and at all times relevant to this action, was Trustee of the Plan, and as such, is deemed to be the custodian of records with respect to the Plan and/or the person with knowledge with respect to the Plan's administration and management.
5. In connection with an investigation initiated pursuant to ERISA § 504(a)(1), 29 U.S.C. § 1134(a)(1), to determine whether any person has violated or is about to violate any provision of Title I of ERISA or any regulation or order promulgated thereunder, the Boston Regional Office of EBSA telephoned and left voice messages for Respondent on November 28, 2017, January 11, 2018, April 18, 2018, and June 17, 2018. EBSA emailed Respondent on July 24, 2018 requesting that Respondent call back. The Boston Regional Office then sent a letter to Respondent on September 18, 2018 requesting a call back.
6. Because Respondent did not respond to any of these communications, on February 5, 2019, the Regional Director of the Boston Regional Office, EBSA, signed and issued an Administrative Subpoena requiring Respondent to produce certain records and documents necessary to the investigation. Specifically, the Administrative Subpoena requires that Respondent produce payroll records and W2s for the period from January 1, 2016 to the date of production. Copies of that Administrative Subpoena, a cover letter, and proof of receipt are attached as Exhibit A.
7. On February 5, 2019, EBSA Senior Investigator Emily Born sent by certified mail, return receipt requested, the original of the Administrative Subpoena to Respondent, Eric

Traverse, at 338 Fishing Access Road, Brandon, Vermont 05733. The return receipt was signed by Renee Traverse on February 9, 2019.

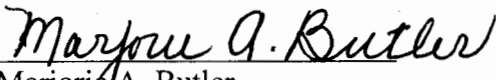
8. The Court has personal jurisdiction over Mr. Traverse, who lives at the above listed address.
9. The Administrative Subpoena requires that the Respondent produce W2s and payroll records, which relate to the Plan.
10. Despite the Department's repeated attempts to contact Respondent, as set forth in the Born Declaration, the Westphal Declaration, and the Declaration of Sheila A. Gholkar, Respondent has failed to transmit any documents to the Department of Labor in response to said Administrative Subpoena as of this date.
11. The Secretary requires the documents sought in the Administrative Subpoena in order to conduct its investigation of the Connor Group 401(k) Plan.

WHEREFORE, the Secretary prays that this Court enter an Order requiring Respondent to appear on a date certain to Show Cause, if any there be, why it should not appear before the designated representatives of EBSA at such time and place as Petitioner or the Court may set, then and there to produce such designated documents as required by the Administrative Subpoena, that Respondent be ordered to submit to an administrative deposition at an agreed upon time and date before representatives of EBSA, and that petitioner have such other and further relief as may be necessary and appropriate.

Respectfully submitted,

Kate S. O'Scannlain
Solicitor of Labor

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Regional Solicitor


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DATE: November 26, 2019